

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 74/673,508

Filed on May 19, 1995

## For the Mark Harry's and Design

TTAB

The Harris Soup Company,

Applicant,

V.

Harry's Farmers Market, Inc., aka  
Whole Foods Market IP LP,

Registrant.

Concurrent Use No. 94001242

08-23-2004

U.S. Patent &amp; TMOfo/TM Mail Rcpt Dt. #33

## APPLICANT'S REQUEST TO RESUME PROCEEDINGS

In an Action with mailing date April 2, 2004, the Board notified the parties that they had three months, i.e., until July 1, 2004, to provide a detailed report on the progress of their settlement negotiations, including recitation of issues that have been resolved, issues that remain to be resolved, and a firm time table for resolution. Absent such a report, the Board stated that any future motion to extend or suspend, even though agreed to by the parties, may not be approved. The Board further advised the parties that, if there was no word from either party concerning the progress of their negotiations within the next six months, the Board will issue an order resuming proceedings and resetting trial dates, including the time for discovery.

This is to report that the parties, in fact, have not been able to consummate a settlement, and there is no firm time table for a resolution, although discussions are continuing. While a structure for the settlement has been preliminarily agreed to, the parties have not been able to

reach final terms. Therefore, The Harris Soup Company requests that the concurrent use proceeding be resumed, and a time table set forth for discovery and trial.

Dated: August 16 2004

Respectfully submitted,

THE HARRIS SOUP COMPANY

By: Michael J. Esler  
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CERTIFICATE OF MAILING

I hereby certify that this Applicant's Request to Resume Proceedings is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Box TTAB No Fee  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

on August 18, 2004.

Christine Ortiz  
Signature  
Christine Ortiz  
Printed Name

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of APPLICANT'S REQUEST TO RESUME PROCEEDINGS was served on counsel for Registrant, Christopher L. Graff, Esq., Trop Proner & Hu, P.C., 8911 N. Capital of Texas Highway, Suite 4150, Austin, TX 78759 via first class mail on this 18<sup>th</sup> day of August, 2004.

  
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